

Violence and Civil Disobedience

B123999

8496

Philosophy MSc

The University of Edinburgh

2018

Abstract

Discussion of civil disobedience is dominated by the position that for civil disobedience to be permissible it must be nonviolent. I have provided an argument for the justification of violence in acts of civil disobedience. In order to make this argument I forward an assessment of what I believe successful acts of civil disobedience should do. Following this I give an analysis of violence, highlighting the variety of acts falling under this concept. From this analysis I argue that violence can be physical, psychological or targeting property. As well as this violence can be measured along two dimensions: severity and proportionality. Such an analysis of violence is lacking in much of the anti-violent civil disobedience literature. My defence begins by responding to the two main positions against violent acts of civil disobedience. I identify these arguments as the moral and practical arguments against violent civil disobedience. I complete my argument for the permissibility of violent civil disobedience by arguing that each form of violence may be justified under specific circumstances. This is achieved through an application of the concept violence and by forwarding theoretical and actual examples of legitimate civil disobedience for destruction of property, coercion and self-defence.

Contents

Introduction.....	4
What is Civil Disobedience?.....	5
What is Violence?.....	7
Moral and Practical Arguments Against Violent Civil Disobedience.....	15
Justifying the Three Forms of Violence in Civil Disobedience	21
Conclusion	28
Bibliography.....	29

In this paper I shall focus on the permissibility of violence in a context of civil disobedience. The prevailing view in the civil disobedience literature, at least in the seminal texts, is that civil disobedience must always be nonviolent. This can be found in Rawls, Gandhi, King, Habermas and Thoreau (Rawls, 2002) (Thoreau, 2002) (King, 2002). Although all share an endorsement of nonviolence, their condemnation of violence varies. In some discussions, violence in all contexts is dismissed as quickly as defining it as an act that is always condemnable (Ableson, 1969 p.38). In others, it is rejected as it is considered to be less of less practical worth than nonviolence (Dean, 2005 p.65). Some believe it cannot ever be morally permissible in the context of civil disobedience (May, 2015 p.59).

I believe that a detailed analysis of what violence is and why it is impermissible has been neglected in much of the civil disobedience literature. With a more careful examination of violence, the question of whether civil disobedience can ever be violent is no longer as obvious as some have assumed. I will argue that under some qualified circumstances, some qualified acts of violent civil disobedience are permissible. In order to defend these claims, I will first consider the two concepts, violence and civil disobedience. I will not attempt to define violence and civil disobedience by providing necessary and sufficient conditions. Rather, I discuss what I consider a successful act of civil disobedience to be and what intentions are behind such action. I shall emphasise what I consider to be the most important quality of civil disobedience: its role in communication. This will be achieved partially through introducing and endorsing Singer's approach to civil disobedience as a 'plea for reconsideration' (Singer, 2002 p.122). Following this I begin my analysis of violence. I will draw from several sources in order to make a general claim for identifying acts of violence. With this as a foundation, I shall proceed with a more detailed analysis, breaking violent acts down into various

degrees and forms. I shall argue that violence takes three forms, physical, psychological and property. I shall introduce 'severity' and 'proportionality' as dimensions along which we might measure violent acts. I shall also engage with claims that violence is definitionally illegitimate and, therefore, never permissible. This analysis will highlight the diverse nature of violence. With the exposition of these two concepts completed I can use my analysis to answer the question of whether violence in civil disobedience can be permissible. First I will engage with both the moral and practical arguments against violent civil disobedience. I shall then provide my argument for violent civil disobedience by examining each form of violence in the context of an act of civil disobedience. I am in agreement with commentator's such as Singer that there must be limits on civil disobedience. I thus condemn many acts of violent civil disobedience. However, what should and should not be permissible cannot be directly mapped onto what is and is not violent. This paper will show that some mild forms of violence can be compatible with a successful act of civil disobedience conceived as a plea for reconsideration.

What is Civil Disobedience?

It is notoriously difficult to produce an encompassing definition for civil disobedience. Attempting to identify necessary and sufficient conditions for civil disobedience tends to produce apparently verbal disputes over whether examples that do not correspond count as civil disobedience. The discussion is often led away from the key identifying features¹. So, I shall instead examine a paradigm instance of accepted civil disobedience and observe the key features and the intention behind the action. The example I am using to represent civil disobedience

¹ These type of definitions certainly have their use but I do not believe it is required or beneficial for me to attempt one in this paper.

is Rosa Park's refusal to give up her seat on a state bus. In 1955 Montgomery, Alabama there was legal segregation on state buses and bus drivers had the power to move black people from their seats to allow white people to sit. This situation arose for Parks but she did not give up her seat. She was subsequently arrested and fined leading to a mass boycott of buses in Montgomery including the participation of Martin Luther King that was eventually successful. This can be considered an effective instance of civil disobedience. An injustice has been identified and through disobedience was highlighted. It prompted to a greater social examination of the issue and has eventually lead to reevaluation and reform. This is an example of civil disobedience working perfectly. In order to be successful and have the effect that an act such as this example has had, it must be communicative. The injustice must be explained, or at least brought to public attention, in the act of civil disobedience. Parks challenged the absurdity that being black and sitting on a bus can lead to arrest. She did this by being black, sitting on a bus and being arrested. In light of this, I wish to introduce Peter Singer's position that civil disobedience is a 'plea for reconsideration'. I believe this gets at the core of civil disobedience in a democracy. The equality of democracy is both its success and failure. Everyone's vote is equal; educated, uneducated, good people and bad people. Therefore, when an issue affects only a minority, the majority of voters may have no understanding of, or interest in, the topic. An apathetic or ignorant majority can have complete control over a highly engaged and passionate minority as each individual's vote counts the same (Singer, 2002 pp.122-123). Civil disobedience allows the minority to communicate to the majority when legal methods may have failed. It is a demonstration of commitment to their cause and a communication of injustice. However, acts of civil disobedience are more than just communicating an injustice. They extend beyond broad communication to a plea for reconsideration.

The act is motivated by change. By communicating an injustice the disobeyers are addressing the public and asking them to convert to their position. Civil disobedience is, therefore, also a persuasive device.

Here I have identified that the purpose of civil disobedience is to reopen a discussion over a particular perceived injustice. Important to this is that the protestors are using their action to communicate with the majority. The action must be communicative and persuasive in order to be successful. This is not a controversial claim, although Singer's position may well be challenged, all attempts at defining civil disobedience include communication as a fundamental feature. Therefore, much of my discussion in later chapters will be centred around the quality of communication in protests.

What is violence?

In order to proceed with a discussion of violence in a framework of civil disobedience it must be established what is meant by the term violence. Some writers have been tempted to load definitions with value judgements or include descriptions that inevitably lead to a value judgement. Abelson, for example, claims that “‘violence’ connotes illegitimate or excessive force” (Abelson, 1969 p.38). He proceeds to make the argument that distinguishing acts as violent and nonviolent “is to condemn the first group and to excuse the other second” (Abelson, 1969 p. 38). Inherently there is nothing wrong with making the claim that violence is bad/unjustifiable/irrational/illegitimate. However, in this section I shall argue that there is sufficient reason to doubt definitions such as Abelson's. My position is that whether a violent act is condemnable is an open question. I believe that our intuition

supports this position. Lawrence provides the example of a policeman who legally kills a murderous assailant (Lawrence, 1970 p.33). This assailant could well be armed with a weapon and witnesses testify that the policeman would have certainly been attacked had he not killed the man. It is difficult to suggest that his action was not permissible and even more difficult to claim that his action was nonviolent. This is also not a unique set of circumstances. Examples of permissible violence are common. Boxers and MMA athletes make careers by being the most talented at performing violent acts. Police officers, bouncers, security guards and soldiers all have professions that we can reasonably expect violence to occur. It is worth noting, however, that just because it is feasible that these professions allow violence does not mean it is good. Lawrence distinguishes evaluating acts as 'good' 'neutral' and 'bad'. A violent act only needs to be 'neutral' for it to escape a quick condemnation. It is not difficult to find instances of illegitimate, irrational or excessive instances of police violence such as the shooting and killing of unarmed Michael Brown in 2014 that led to the Ferguson Riots (BBC News, 2015). But I have also provided examples of celebrated and accepted acts of violence in society. This directly challenges the claim that violence is *always* illegitimate and supports my claim that violence is varied. I have briefly explained why I believe we cannot condemn violence by definition. I shall now discuss what I believe we can attribute to violence to build an understanding of the term and how I shall use it. I do not wish to close questions with my exposition of violence. In this discussion of what violence is I intend to guide the reader toward an open concept. I will follow Lawrence's position that a starting understanding must be neutral, specifically one that "is compatible with every moral claim that can be made about violence-including the claim that every violent act is justified" (Lawrence, 1970 p.33).

Similar to my discussion of civil disobedience I will now spend time identifying key features of violence that will help us to characterise acts as 'violent'. Again, as with civil disobedience, I shall not attempt a comprehensive definition covering all elements and aspects. Rather, I will highlight what the literature on violence has identified as the core feature of violence. Although there are important subtle differences between many of the commentator's stances there does appear to be a theme in the established literature that violence is some kind of transgression against a person. Wade argues that violence is a "notion of infringement" (Wade, 1971 p.370) and Betz that violence must be violating (Betz, 1977 p.340). Although I will not be engaging further with Lawrence's position he also follows a similar path by asserting that violence must include a form of injury to a person (Lawrence, 1970 p.35). Each of these positions is connected by the claim that in violent actions there is a victim that is compromised. There is also always a perpetrator (individual or group) that causes the infringement/violation. If I am to push someone and they break their arm when they fall, I have committed a violent act. However, we would not consider it a violent act if the same person was to break their arm from tripping over themselves. The consequence of the action is also important for violence to have taken place. Attempting to throw a punch but missing could be considered attempted violence but not an violent act itself. Wade states that "If nothing is damaged or no one is injured, there is no infringement" (Wade, 1971 p.371). This leads to an important distinction between a 'harm principle' and nonviolence. The harm principle is a term used by Mill to argue that actions should be limited by the prevention of harm to others (Brink, 2016). However, the lack of harm, i.e a harm principle, is not the equivalent of nonviolence. There is nothing about nonviolence to suggest that it cannot also be harmful. For example, nonviolent strike action often causes harm to those affected. The striking of

emergency services is a passive, nonviolent act. However, this could well lead to catastrophic harm. Raz voices this argument when he claims that a nonviolent act such as an ambulance strike “may well have much more severe consequences than many an act of violence” (Raz, 2002 p.161). Harm is, therefore, not a useful description for distinguishing between violence and nonviolence.

An important quality for the methods of characterising violence I have introduced is that they allow for a more sophisticated understanding of the concept. Violations and infringements are not limited solely to the physical. The literature on violence is dominated by distinctions between, physical violence, property violence and psychological violence. I shall briefly explain the three forms of violence although each can be found in greater detail in Lawrence’s ‘Violence’ (Lawrence, 1970), Wade’s ‘On Violence’ (Wade, 1971) or Morreall’s ‘The Justifiability of Violent Civil Disobedience’ (Morreall, 2002).

Physical, or bodily violence, is the most intuitive form of violence. This is where an act of violence affects the body of the victim. Examples include being punched, kicked or stabbed. Physical violence is rarely controversially violent. Although not all cases are explosive and immediate, such as a shooting. Bodily violence can include drawn-out processes such as physical torture. Second is psychological violence. This is similar to physical violence in that we can still consider it an assault directly on a person, but the target is not their body. Although it can be sudden it is generally associated with a longer process. Instances of psychological violence often include the breaking down of a person mentally. This may be found in abusive relationships where one individual dominates the will of the other. Although psychological violence is inherently nonphysical, it can co-exist with physical violence in examples such as abusive relationships. Lastly, property violence. This is separated from the previous two because, although still including a

victim, they are affected indirectly. Property violence is the claim that destruction or damaging of someone's property is a violent act against that person. For example, if I was to burn down my neighbour's home, even if no one was physically harmed, this would be a violent act against my neighbour. It is violent because it negatively affects the victim through the destruction of their property. This means if there is no victim it is not a violent act. For example, if I was to burn down an abandoned house that was not owned by anyone, this would not be a violent act. These actions can be considered violent because they can be considered a violation/infringement to a person through their property. No one is violated/infringed when an object that does not belong to anyone is destroyed, therefore it cannot be considered a violent act.

The distinctions made between the three forms of violence is established and commonplace in the literature on violence. However, this is entirely neglected in many discussions of violence in a civil disobedience framework. For example, Rawls entirely fails to provide a detailed analysis of what this violence is. The lack of analysis results in heavy-handed sweeping accusations condemning all violence in civil disobedience. It is certainly possible to maintain both a rejection of violence in civil disobedience and accept the varying forms of violence. For example, this can be found in May's work on nonviolence (May, 2015). However, not acknowledging the diverse nature of violence suggests that the concept being assessed is incomplete.

As well as the three forms of violence I shall argue that there are two other factors of variety in violent acts. I shall refer to these as the 'severity' and the 'proportionality' of acts. These shall be used throughout this paper, primarily to distinguish between extreme and mild acts of violence. Severity is a measurement of the gravity of an act. If we understand violence as an infringement we are

providing the minimum criteria that an act needs to meet for it to be considered violent. However, some acts can infringe more than others. For example, there is a clear difference between shooting and punching someone. One is a significantly more severe act and our response to it reflects this. We can also see evidence of this in law, such as the distinction between Actual Bodily Harm and Grievous Bodily Harm. ABH is a charge given for more minor acts of violence. ABH “includes any hurt calculated to interfere with the health or comfort of the victim” (The Crown Prosecution Service, 2018A). GBH is reserved for a more serious physical injury that will have a significantly greater impact on the victim. GBH is punishable by a longer sentence than ABH (The Crown Prosecution Service, 2018A). This is an important distinction as some acts of mild violence pale in comparison to severe acts. Infringements do not necessarily have to catastrophically dominate and overwhelm in order to infringe.

The second measurement of violence I shall introduce is ‘proportionality’. This is the claim that two acts of violence that may be considered to have the exact same severity can actually be considerably different. This is because of differences in the victim of the act. This can be illustrated through an example of throwing a brick through a window. If I was to break the shop front window of a nearby Tesco and the shop front window of a local greengrocer the act would have the same severity. One is not more severe than the other as the act of violence is the same. However, there are clear differences between the two. Tesco will absorb the cost easily, their financial plans will likely include unexpected costs such as broken windows. If we estimate the cost of replacing the window at £1000 we can see how this would have a negligible impact on the business that during the 2016/17 generated £2,300,000,000 in retail operations alone and £49,900,000,000 in group sales (TESCO, 2017). The cost for the window is 0.00000002% of their sales.

However, for a small independent business £1000 will not be absorbed as easily. Such unexpected expenses could well have significant financial consequences for a small business that a corporation like Tesco would not experience. The two acts have the same severity but have drastically different consequences. This we can measure as the proportional effect of a violent act. Violent acts against the vulnerable are of a higher proportional gravity than if they were to be targeted at the powerful.

I have shown from the analysis of the term violence that violent acts are massively diverse. I have provided three different forms of violence and shown how some acts are significantly more condemnable than others by presenting two measurements of violent acts. In light of this, it is apparent how complex the concept of violence is. However, none, or little, of this analysis has been made by the foundational texts on civil disobedience. Instead, many of the discussions of violence in civil disobedience rely on the reader's intuition being in line with the writer's, without any acknowledgement of the scale of disparity between acts that we might both label as violent. For example, with both Rawls and Singer, a large emphasis is placed on the claim that violence is incompatible with a fidelity to law (Singer, 2002 p.123) (Rawls, 2002 p.106). Despite breaking the law, civil disobedience is fundamentally supporting the law. This is achieved by highlighting injustices with the intention of reform. For Rawls and Singer, violence is too grave of a transgression to justify as supporting the law. Rawls claims that "fidelity to law is expressed by the public and nonviolent nature of the act, by the willingness to accept the legal consequences of one's conduct" (Rawls, p.113). Rawls labels violent civil disobedience as 'militant action' and claims that the militant protestor is too opposed to the current political system to possibly accept responsibility and legal consequences for his actions. He finishes by claiming that violence cannot

appeal to the public sense of justice. (Rawls, p.113-4). These claims may well be defensible when used applied to instances of murder, serious psychological attacks or destruction of someone's home or welfare. Or targeting particularly weak victims. This is not specified by Rawls as the analysis of violence has not been made.

Rather, he assumes a specific type of violence and uses this to argue for nonviolent civil disobedience ie physical and severe. Finally, although I agree that any form of violence is likely to be controversial, an action such as throwing a brick through a supermarket chain's window does not seem to be any more controversial than an emergency services strike. Therefore, if we accept the latter, I would not claim that the former is outside a public sense of justice.

Part of the aim of this section is to provide a way method of distinguishing between mild and acute acts of violence. This is because I will not be defending any acute acts of violence in civil disobedience. I do not believe acts that are severe or targeting weak groups/individuals in society are morally permissible, nor do I believe they would be practically successful in communicating to the public. When condemning violence, these more extreme acts are often what is being referred to. Part of the utility of measuring the severity and proportionality is that it allows us to measure whether an act of violence is mild or more extreme. My discussion will take place entirely around mild violence as I believe this is the only form of violence that can potentially be acceptable in civil disobedience. I will consider mild acts of violence to be acts that are both mild in terms of severity and mild in terms of proportionality. An act that is mild in terms of severity but targets someone vulnerable is not a mild act of violence and the same with the reverse. I also wish to state that mild acts of violent civil disobedience are not to be preferred over nonviolent civil disobedience. Rather, similar to civil disobedience being a last resort

when all other legal alternatives have been exhausted, violent civil disobedience should be a last resort when all over disobedient alternatives have been exhausted.

Accepting that nonviolent civil disobedience is preferable to violent civil disobedience could be misunderstood as an admission that violent civil disobedience is bad. Maintaining a preference for nonviolent acts does not result in this admission. In this next section, I shall give examples of circumstances where nonviolent civil disobedience is not sufficient to fulfil the purpose of communication as an act of civil disobedience. I shall then show how violent civil disobedience can overcome this obstacle and, therefore, fulfil its communicative purpose. This will show that while ideally all acts of civil disobedience would be nonviolent, violent civil disobedience provides a method of protest that is sometimes more successful.

Moral and Practical Arguments Against Violent Civil Disobedience

I have now provided scope for what I consider acts of civil disobedience to be and why they must achieve communication in order to be successful. I have also developed an analysis of the concept violence. I have broken down the variations of violence into three forms and suggested two measurements. In this next section, I shall utilise this previous exposition as a foundation from which I attempt to address the question of whether civil disobedience can ever be justifiably violent. However, to begin this process I will first explain the arguments against violent civil disobedience that I introduced at the start of this paper. I shall refer to these arguments as the practical and moral arguments against violent civil disobedience.

I shall begin by addressing the 'moral' argument against violence. A moral argument is when a moral issue is taken with violent protest and, therefore, concluded

that it is impermissible. This argument goes beyond the previously addressed claim that violence is always impermissible. Those voicing a moral argument do not claim that violence is always impermissible, rather, that the use of violence *in civil disobedience* is impermissible. I shall use an argument from May to explain such a position. May's starting point is that "The dignity and equality of others is important and to be respected." (May, 2015 p.106). He proceeds to argue that violent protest undermines, and shows no respect for, another's dignity. He contrasts this with nonviolent protest, which, through the decision to abstain from violence, provides evidence of dignity and respect for those that are being protested against. May's concept of dignity is vague. However, he argues that failing to treat someone with dignity is "to fail to treat others as having a life to lead" and not "to serve one's own ends" (May, 2015 p.48). May claims that abstaining from violent action is evidence of thinking beyond oneself. Nonviolent action shows an awareness of other's autonomy. Such action does not compromise the dignity of others because it is a conscious effort to restrain from violating the other. Therefore, nonviolent protest is permissible, whereas violent protest is impermissible.

However, I do not consider this to be a successful argument against the permissibility of violent action. I grant that a distinction between acts of civil disobedience that respect another's dignity and acts that do not may well be fruitful. Yet, May believes the respect for dignity is the defining characteristic in the distinction between violence and nonviolence (May, 2015 p.59). I do not believe it can be directly mapped onto the violent/nonviolent dichotomy. Morreall provides an example case of civil disobedience that I will use with a slight manipulation to illustrate my response. The scenario is in 1850s America, where a slave-owner is chasing a runaway slave. The law states you must help the slaveowner capture the runaway slave. You see the physically superior slave-owner is gaining on the slave and will inevitably recapture him. However, if you were to publicly break the law and tackle the slaveowner to the ground you would give the slave the head

start he needs to successfully escape his captor. Morreall argues that not only are you justified breaking the law in a public manner by not assisting “in the capture of runaway slaves, in order to publicize the immorality of *that* law” but that “I can also be justified in breaking the law which protects the master’s *prima facie* right against being assaulted.” (Morreall 2002 p.138). Assuming you will not obey the law and tackle the slave, you have two options for civil disobedience in this scenario. If you adopt violent action and tackle the slave owner you are not respecting his dignity. This is because tackling the slaveowner is not treating people as “preemptively worthy of respect” (May, 2015 p.49). There is no contemplation of the slaveowner’s biological and physical needs or his right “to engage in projects and relationships that unfold over time” that are integral to human dignity (May, 2015 p.49). It is feasible that the slave, as the slaveowner’s capital, provides the owner with the manpower for his subsistence. However, in tackling the slave owner you *are* respecting and upholding the dignity and autonomy of the runaway slave. By allowing the slave to escape you enable him to fulfil his own projects and relationships which are compromised by the slaveowner. If you opt for the nonviolent civil disobedience and do not chase the slave, you are upholding the dignity of the slaveowner but you are willingly allowing the domination of the slave’s dignity through recapture. It might be argued there is a difference between the two options as one is an action and the other an omission. However, I would disagree. Morreall argues both are acts of civil disobedience. Both physically stopping the slaveowner and not assisting in the capture of the slave are public, breaking the law. They are both communicative as they are enacted “in order to publicize the immorality of *that* law” (Morreall, 2002 p.138) and, therefore, seeking a change to the law requiring bystanders to assist in the capture of runaway slaves. Because each are *acts* of civil disobedience they are both *actions*. There is no option to avoid engagement. Failing to tackle the runaway slave is breaking the law and an act of disobedience. A worker strike is an action even if the action is the decision not to do

something. In *both* cases, violent and nonviolent, one individual's dignity will be compromised. Neither option is clearly more respectful of dignity than the other, therefore, not only does May's model fail to justify the defence of the slave but it fails to produce any course of action as neither is obviously respectful of other's dignity. I can force a response that nonviolent techniques to stop the slave-owner are possible, such as a distraction method. However, no such action ensures the slaveowner is stopped in the way as physical intervention does.

The introduction of dignity to civil disobedience does appear potentially productive and I agree with much of May's argument. However, it is a misrepresentation of violence and nonviolence to suggest that the distinction can be simplified into acts that are respectful of dignity and acts that are not. I cannot engage with every 'moral argument' against the use of violence in civil disobedience, however, most other 'moral arguments' against violence in civil disobedience adopt a similar pattern. These arguments identify a distinction between violent and nonviolent acts of protest, such as the respect for dignity. Identifying a distinction is necessary for the moral argument as without one the argument is solely condemning violence in general. This difference is then given a moral value, i.e it is immoral to fail to respect another's dignity. This is then used to claim that violent civil disobedience is immoral and, therefore, is impermissible. I have chosen May's argument because May recognises the complexity of the topic and in many ways forwards a strong, compelling position. Yet, he still falls short of a successful moral argument against violent civil disobedience. May does not have access morally 'neutral' acts of violence in civil disobedience that I discussed during my analysis of violence. Instead, every possible act of violent civil disobedience *must* be morally wrong. Morreall's hypothetical causes problems for the claim that violence in civil disobedience is *a/ways* wrong and, therefore, causes problems for the core claim of May's argument. The method of using a distinction

between violent and nonviolent and then placing a moral value on this distinction which always condemns the violent action over the nonviolent is overly ambitious.

I have explained why 'moral arguments' against violence in civil disobedience are problematic due to the issues with the method of using a distinction between violent and nonviolent that always holds. From here I shall move to the second form of argument against violent civil disobedience. The claim that although it may be possible to grant the permissibility of violent protest in theory, the nature of violence means that a nonviolent option will always be a more successful form of action in practice. The majority of arguments against violent civil disobedience rest mainly on a practical, rather than moral objections to civil disobedience. This includes high profile defenders of nonviolence such as Rawls, Gandhi and King. I consider this more defensible than the moral argument against violence in civil disobedience. Adopting such an argument does not require to proof that violent civil disobedience is always 'bad', or even always ineffective. In fact "Gandhi and King readily conceded the moral attractions of and legitimacy of violence, especially in circumstances of self-defence." (Mantena, 2018 p.84). Instead, the position rests upon the claim that nonviolent protest is always a *better* option. As I understand civil disobedience as a plea for reconsideration of a potential majority decision, I will be assessing whether it is possible for a violent protest to perform the same function more effectively than nonviolent disobedience. I shall argue that under some circumstances placing a restriction of nonviolence on civil disobedience limits the effectiveness and that violent protest is the only possible method for some protests to achieve the end of communicating a plea for reconsideration.

I shall first provide an example to demonstrate the practical argument against violent protest. I have already briefly discussed Rawls' position, I shall now use this to explain this form of argument against civil disobedience. I shall focus on Rawls as his argument is greatly influences later nonviolent theorists. Rawls does appear to define civil

disobedience as nonviolent (Rawls, 2002 p.104). However, this is not to be mistaken as the claim that civil disobedience is by definition nonviolent. Rather, he allocates civil disobedience the quality of nonviolence because he believes it is a necessary result of several other inherent qualities of disobedience. According to Rawls, civil disobedience must be political, public, conscientious, driven by change for a law but with fidelity to *the* law and communicative. Rawls considers violence to be in conflict with several of these qualities (Rawls, 2002 pp.104-105). Violence obscures communication, displays a deep opposition to the law and as an attack on others it cannot be conscientious. Rawls' use of the term conscientious can be understood to mean a sincerity to act in the interest of society (Brownlee, 2017). Therefore, civil disobedience must be nonviolent (Rawls 2002 p. 105-107). There is no moral judgment made on the quality of violence in the argument. Instead, violence is simply incompatible with fundamental aspects of civil disobedience. For Rawls, violent protest is not as successful as nonviolent because nonviolent protest is always a better form of communication (Rawls, 2002 p.106). This has been an influential claim and is echoed by several other writers: Mantena writes that "violence necessarily becomes embroiled in rancorous debate" which detracts from the intended message of the protest (Mantena, 2018 p.95). However, I previously argued that Rawls' position is only successful when presupposing a form of violence that measures high on a severity and/or proportionality scale. Rawls is likely correct that *extreme* forms of violence obscure communication. If Rosa Parks were to have shot the bus driver when being asked to move, the message of her action would likely have been lost. It would have been used as fuel against those who pursued equal treatment. It would be difficult to defend the disobedience as targeting only a particular instance of injustice. Nor would you be able to describe such an action as conscientious. Even without accepting all that Rawls claims is essential for civil disobedience it is still a persuasive argument against extreme violence under my understanding of civil disobedience. Extreme acts of violence are not a

persuasive method to change the public's mind.² I will not critically engage directly with this argument further.³ However, much of the forthcoming discussion will address practical issues with violent civil disobedience. Rather than responding to arguments against the practicality of violent protest, such as Rawls, I shall be arguing *for* the practical value of violent protest. In the following passage I shall be arguing for the permissibility for some instances of mild violence in civil disobedience. I will show, contrary to Rawls, how the mild violence in these acts does not obstruct the communication which is integral to Rawls' conception of civil disobedience.

Justifying the three forms of violence in civil disobedience

I have now acknowledged and engaged with the two arguments in opposition to violent civil disobedience, namely, the practical and moral arguments. However, a refutation of the arguments against violent civil disobedience, although essential, is not sufficient to claim the justifiability of such protests. Therefore, here on in, my focus shall be addressing the permissibility of each of the three forms of violence: property, psychological and physical. I shall forward an argument justifying each type's use under specific circumstances.

In order to defend the decision to destroy property as a method of civil disobedience, I shall look to the suffragette movement as an example of how this can be a successful tactic. In 1909 Selina Martin and Lesley Martin were arrested for throwing an empty ginger beer bottle at the car of Prime Minister Asquith in Liverpool (Riddell, 2018).

² Beyond the minor impact that fear of a public threat may have. This would be extremely difficult to sustain. It would also likely move the act into one of terrorism and not civil disobedience. Civil disobedience opens dialogue with the public rather than relying on terror for manipulation.

³ For a more detailed complete account of my argument against this position see Fitzmaurice, 2018

The confrontation with Asquith was planned. They knew an audience with Asquith was unlikely. The women wore disguises as fruit sellers in order to not cause suspicion. Actions such as this characterised the suffragette movement. This was a successful approach for a number of reasons. First, Martin and Hall were directly engaging the politicians who would ultimately decide the legislation on women that the suffragettes were concerned with. Asquith has no choice but to acknowledge their existence. Second, while only directly dealing with one individual, precisely because it is a controversial action, it is also widely exposed to the rest of the public. Violent actions are controversial. This makes them highly reportable. They can be shocking, often explosive and attention-grabbing. For this reason, they are very marketable for newspapers. Rawls wishes to dismiss violent action for civil disobedience because it obscures the act of communication (Rawls, 2002 p.106). However, examples such as the suffragette movement show how when correctly used, violence can be a tool to heighten the act of communication and be of great practical value. The suffragettes were well aware of this. Pankhurst, a leading figure in the movement recognised the importance of utilising the press: "You have to make yourself more obtrusive than anybody else, fill all the papers more than anybody else if you are really going to get your reform realised." (Thompson, 2016). Third, this is an example of mild property violence. Throwing a bottle at an empty car is not morally abhorrent. Martin and Hall are targeting a powerful person and they are causing minimal harm. It is low in severity and proportionality. Because of this, it is less likely to be deemed too extreme by the public. They benefit from the exposure such an act brings, yet, the people they are appealing to have little reason to dismiss the cause due to the action. I can foresee an objection being made that although violence in this example is being utilised effectively for civil disobedience, it is irresponsible for one's method to be dangerous just because it is reportable. I agree that at some point, blatant danger may well be irresponsible. However, as I have stated, although there is always a

victim in violent acts, the danger to the victim can be minimal if the act of violence targets the powerful and/or is not a severe action.

Psychological violence is most difficult of the three to identify. Unlike property and bodily violence where there are recognisable physical indications, psychological violence can go undetected. This makes it less of a sensationalist tool as other forms of violence might be, as I have explored with the suffragette movement. Rather than to argue for a broader range of permissible acts of civil disobedience, as I have for property violence and will do for physical violence, my position for the justification of psychological violence is that it is already present to some degree in much of the accepted acts of protest. Because it is not recognised as violence, a form of what I believe to be psychological violence is even endorsed by strongly nonviolent theorists. More specifically, I shall argue that coercion is a form of psychological violence and, therefore, if we are to accept coercive acts of civil disobedience then we also accept this form of psychological violence. The form of coercion I am referring to is sometimes called ‘dispositional coercion’. This is an act that manipulates the victim through threats and implications. This is opposed to ‘occurrent coercion’ which is the use of actual force to achieve the manipulation of the victim. Gunderson characterises the distinction: “The kidnapper who grows too old for physical stuffing his victims into a car and threatens them with a gun instead has graduated from occurrent to dispositional coercion.” (Gunderson, 1979 p. 248). Acts of civil disobedience are sometimes accidentally coercive to some degree. To return to the suffragette example, the tactic of destroying property was adopted as it kept their movement in the paper. However, a by-product of such a strategy was that the movement cost the government up to two billion pounds (Thompson, 2016). This places pressure on the government as meeting the suffragettes’ demands would stop the cost. But coercion can also be the main intention of the act. Martin Luther King Jr, well known for nonviolent action, talked of “constructive coercive behaviour” (King, 1968 p.152).

One might object that, if coercion is a form of violence, then all civil disobedient acts are violent. If affecting another's decision-making capability is violent then the definition becomes impossibly broad. Coercion is a form of influence and the influence of others is commonplace. Suggesting coffee to a friend is likely to influence. It is difficult to conceive of any interaction with another human that might escape this label of violence. This would render the term psychological violence meaningless. No matter how passive the act, influencing another's decision making would be 'violent'. However, my response to this is an increased focus on the *violation* of the decision making capability. A reasonable persuasive argument is only a method of influence, holding a gun to another's head is a violation. Only acts where decision making is *violated* are violent. I am referring to these for clarity as coercive acts. Influence is only a *violation* when another person's decision making is manipulated against their will through the introduction of external elements, such as the promise of undesirable consequences. With this in mind, we can see there is nothing inherently coercive about civil disobedience. Acts become coercive when the victim's decision making has been affected by threats from the coercer. This, as with all forms of violence, comes in varying degrees. Being instructed to hand over a wallet with a gun to your head is extremely coercive, since there is almost no viable resistance. Gunderson provides the example of a man who wishes to perform a skydive but is too frightened to jump. His companion informs the parachutist that he will tell his friends that he lost his nerve. This is an act of coercion, "However, since his own desire to jump played such a large role in motivation he was only slightly coerced" (Gunderson, 1979 p249). Civil disobedience as a plea for reconsideration is an engagement with the public. It is an attempt to highlight a legally sanctioned injustice, asking the other members of society to recognise this and do what they can to remedy it. I would argue, it is unavoidably an attempt at influence. However, nothing about this process *requires* coercive means that violate decision making capacities. Public displays of illegal

marijuana consumption is a common act of civil disobedience in the US, spearheaded by the Marijuana Policy Project (MMP, 2018). Protesters take issue with the labelling of marijuana as a dangerous substance and in demonstration of their position they consume large amounts safely and illegally. This act is free of coercion. It addresses the public with an issue and asks for their help in changing the legislation. Civil disobedience is not required to be coercive and often is not. Therefore, it is still productive to make a distinction between acts that do intend to violate the decision making of others and those that do not. Gandhi, although labelling his coercive actions as nonviolent, still intends to force a change of will in his opponents through his coercive boycotts, noncooperation and strikes (Bondurant, 1958 p.8-9). I have shown how coercion, as a violation of an opponents decision making, is a psychologically violent act. I have also shown how this can be a useful tool. Coercion even helps the 'victim' in the nervous parachutist example, despite his will being manipulated through threats. Mild coercion is a psychologically violent technique that has been frequently and successfully utilised even by 'nonviolent' activists. The proportionality measurement can be of particular importance to psychological violence. Extreme forms of psychological violence often target vulnerable individuals. However, Gandhi's use of such violence subjects powerful governing bodies.

Finally, I shall address physical violence. Although I believe the permissibility of physical violence in civil disobedience can extend beyond self-defence, I will, for the purpose of this paper, limit my defence of bodily violence to self-defence. I shall briefly set the framework of acts of self-defence. Self-defence is reactive. It is responding to violence with violence. However, it is strictly to serve the purpose of defence only. Revenge does not fall under the category of self-defence. It is also important that in self-defence only the required force is used. Therefore, the control of the situation always lies with the aggressor. If the aggressor ceases to be violent then individual defending himself no longer has any need to be violent. If the aggressor is increasingly more forceful they

will draw a greater force from the defence. The aggressor always sets the parameters of violence when dealing with self-defence.

For this discussion, I shall return to Gandhi. Much of Gandhi's activism involved his protests being met with physical violence, however, instead of resorting to self-defence Gandhi strongly endorsed enduring the attack. He claims that there are three possible reactions for the protester when she is met with violence. First, to retreat. In retreating you reduce the chance of harm, however, your protest is over and your violent opposition has succeeded in silencing you. To this end, it is the least desirable option. Second, is to engage in self-defence. Gandhi considers this is preferable to retreating as your protest is not silenced: "where there is only a choice between cowardice and violence, I would advise violence" (Gandhi, 1920). You are showing that you are willing to fight for your position. However, you lose the quality of nonviolence and it is likely that your opposition is armed and trained, therefore, success is improbable. Finally, the option to endure the violent opposition to your protest. This approach utilises the publicity of violence that is recognised by Rawls and Pankhurst, yet it does not risk compromising the integrity of the protest by adopting violence itself: "Gandhi insisted that it was always better to fight than to run, though disciplined self-sacrifice would be the preferred option about all others" (Mantena 2018 p.84). Although the protestors will be harmed, it is likely this will happen, perhaps even to a greater degree, in self-defence. Enduring violence shows an even greater sacrifice for the cause. For these reasons, Gandhi concludes this is the most desirable response to violent opposition. I mostly agree with his position. Gandhi manages to utilise the benefits of violence without risking the criticism of actually performing violent acts. It helps publicise your act and heightens the communicative aspect of the protest that is integral to successful acts of civil disobedience. However, Gandhi fails to recognise that enduring the violence and continuing your protest is not always an option. Here Gandhi argues enduring violent acts is the best response because

it is of a practical benefit. But when the act of violence is designed to silence or end your protest, enduring such violence is not be in the best interest of the protestors as it will stifle and not enhance the communicative element of the protest. For example, it is common for those on a hunger strike to be force-fed. This is the forced insertion of a pipe through the nose and down the throat of the victim. The pipe is described as larger than the nostril and often results in broken cartilage. The mouth is clamped shut during the procedure (Appel, 2012 p.315). The act of force-feeding is highly invasive and a serious violation. It is a physically violent act. Force-feeding allows governments to control hunger strikes. Institutions that have adopted force-feeding, such as Guantanamo Bay Prison, are able to punish the protestors while justifying the action as 'in the best interest' of those striking. Enduring such violence reaps little success. The intention behind a hunger strike is to put pressure on those being protested against. The protestor's claim is that their malnourishment and possible eventual death will be a result of the action they are protesting against. Yet, if the protester endures force-feeding, the pressure is lifted because they are no longer malnourished. For a violent response designed to silence a protest, such as this example, self-defence is of more practical worth to the protestor. The protest is stifled by accepting the violent actions against you. Physically violent resistance, even if ultimately futile, may have beneficial consequences for the protester. Resistance may prolong the protest and may create publicised disruption, drawing attention to the issue. In some scenarios it is the only remaining option where the protest may not be silenced. I realise that a paper which argues for the permissibility of physical violence in protest may appear radical. However, as I have shown, an argument for self-defence is already made by Gandhi. I have identified specific scenarios where enduring violence would not be successful and argued in these scenarios self-defence is more a effective technique.

* * *

The majority of literature on violence in civil disobedience presents arguments against violent civil disobedience. The positions are formed either around a claim that there is something inherent in violent civil disobedience that is wrong, or, that violence undermines the communication that is essential for a plea for reconsideration. Violence is either wrong in itself or wrong because it damages the act of civil disobedience. However, I believe these arguments rest on an inadequate understanding of what violence is. I have argued for a highly varied concept of violence. Violence comes in three degrees and two dimensions. When eliminating all but mild instances of violence it should not be surprising that such actions may be justifiable in the context of civil disobedience. I have provided evidence for this claim by way of both actual and theoretical examples of violent civil disobedience that seem justifiable. This topic is of importance for both philosophical and social reasons. Philosophically much of the anti-violent work is based on a rigid conception of violence and, therefore, fails to sufficiently address the topic. Socially it is important because civil disobedience is often a last resort. It is commonly enacted by those who do not have the power to legally fight injustices they face. Violent civil disobedience is then often the last resort when non-violent protest is unsuccessful. Rejecting the permissibility of violent protest, in such mild cases of violence as I have explored, disarms those who have nothing left to communicate their message with.

Bibliography

Ableson, R. 1969 'Letters' *New York Review of Books*, Vol. 12, No. 12, p. 3

Appel, J. (2012). 'Rethinking force-feeding: Legal and ethical aspects of physician participation in the termination of hunger strikes in American prisons.' *Public Affairs Quarterly* Vol.26 No.4 pp.313-335

BBC News. (2015) *Ferguson unrest: From shooting to nationwide protests* <http://www.bbc.co.uk/news/world-us-canada-30193354>

Brink, D. 'Mill's Moral and Political Philosophy' *The Stanford Encyclopaedia of Philosophy* Ed. Zalta, E. N. Accessed at <https://plato.stanford.edu/entries/mill-moral-political/#HarPri>

Brownlee, K. 'Civil Disobedience' *The Stanford Encyclopaedia of Philosophy* Ed. Zalta, E. N. Accessed at <https://plato.stanford.edu/entries/civil-disobedience/#FeaCivDis>

Dean, L. (2005) 'An analysis of the justification for the use of violence for political' *Mountbatten Journal of Legal Studies* Vol. 1. No. 2. pp. 65-100

Gandhi, M.K. (1920) *Young India* Wednesday, 11th August, 1920 edition. Ahmedabad.

Gunderson, M. (1979) 'Threats and Coercion' *Canadian Journal of Philosophy* Vol. 9, No. pp. 247-259

King, M. L. (1968) *Where do We Go From Here: Chaos or Community?* Harper and Row: New York

King, M. L. (2002) 'Letter from Birmingham Jail' in *Civil Disobedience in Focus* Ed. Bedau, H. A. Routledge: London

Lawrence, J. (1970) 'Violence' *Social Theory and Practise* Vol. 1. No. 2 pp. 31-49

Mantena, K. (2018) 'Showdown for Nonviolence: The Theory and Practice of Nonviolent Politics' in *To Shape a New World* Eds. Shelby, T. Terry, M. B. Harvard University Press: Massachusetts

May, T. (2015) *Nonviolent Resistance: A Philosophical Introduction*, Polity: Cambridge.

Morreall, J. (2002) 'The Justifiability of Violent Civil Disobedience' in *Civil Disobedience in Focus* Ed. Bedau, H. A. Routledge: London

Raz, J. (2002) 'Civil Disobedience' in *Civil Disobedience in Focus* Ed. Bedau, H. A. Routledge: London

Riddle, F. (2018) 'Suffragettes, Violence and Militancy' *British Library* <https://www.bl.uk/votes-for-women/articles/suffragettes-violence-and-militancy#>

Singer, P. (2002) 'Disobedience as a Plea for Reconsideration' in *Civil Disobedience in Focus* Ed. Bedau, H. A. Routledge: London

TESCO (2017) *Tesco Annual Report and Financial Statements 2017* https://www.tescopl.com/media/392373/68336_tesco_ar_digital_interactive_250417.pdf

The Crown Prosecution Service. (2018) *Legal Guidance, Violent crime 'Offences against the Person, incorporating the Charging Standard'* <https://www.cps.gov.uk/legal-guidance/offences-against-person-incorporating-charging-standard>

Thompson, J. (2016) ' Militant suffragettes: morally justified, or just terrorists?' *The Conversation* <http://theconversation.com/militant-suffragettes-morally-justified-or-just-terrorists-52743>

Wade, F. C. (1971) 'On Violence' *The Journal of Philosophy* Vol. 68 No. 12 pp. 369-377